

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse, Department 21

JUDICIAL OFFICER: HONORABLE EVELIO GRILLO

Courtroom Clerk: Reshma Mishra

CSR: None

RG19014520

February 15, 2022

10:00 AM

Sumisaki VS Berkeley Bowl Produce Inc

MINUTES

APPEARANCES:

No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion - Other Motion for Preliminary Approval of Class Action Settlement

The Motion for Preliminary Approval of Settlement filed by Spencer Sumisaki on 01/05/2022 is Granted.

The motion of plaintiffs for preliminary approval of class action and PAGA settlement is GRANTED.

The court's tentative decision before the hearing on 1/26/22 stated: "The residual beneficiary is the Katherine and George Alexander Community Law Center. Counsel have not provided the information required by CCP 382.4." The parties have now provided that information.

The complaint alleges claims on behalf of hourly employees and asserts various Labor Code claims. There are approximately 2054 members of the class.

The case preliminarily settled for a total of \$3,000,000. The settlement agreement states there will be attorneys' fees of up to \$1,140,000 (38%), costs of up to \$120,000, a service award of \$10,000 for each of the three class representatives, a gross PAGA payment of \$430,000 and a net PAGA payment of \$322,500, and settlement administration costs of up to \$25,000. After these expenses of \$1,637,500, the class would get \$1,362,500. The average payout per class member would be \$663.

The proposed class notice form and procedure are adequate.

The proposed class is appropriate for class certification.

The motion makes an adequate analysis as required by Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116.

The scope of the releases are appropriate.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

The class releases are at para 35 and 50. The scope of the class release is limited to the claims arising out the common facts alleged in the complaint where the plaintiff can adequately represent the class. The release of claims by the class is limited by the "factual predicate rule" to those claims. (Hesse v. Sprint Corp. (9th Cir. 2010) 598 F.3d 581, 590.) (See also Hendricks v. Starkist Co (N.D. Cal. 2016) 2016 WL 692739 at * 2-4 [Denying motion for final approval of class settlement because scope of release overbroad].)

The LWDA's releases are at para 36 and 51. The named plaintiff assert those as agent or proxy for the LWDA.

The named plaintiffs' releases are at para 52. The scope of the release for the named plaintiff could be broader than the class release, which is permissible.

The court notes and approves of the plan to distribute the settlement funds with no claims process.

The settlement states that unclaimed funds are paid to Katherine and George Alexander Community Law Center. Counsel has provided a declaration in support of the motion that provides the information regarding the recipient as required by CCP 382.4.

The Court will not approve the amount of attorneys' fees and costs until final approval hearing. The Court cannot award attorneys' fees without reviewing information about counsel's hourly rate and the time spent on the case. This is the law even if the parties have agreed that Defendants will not oppose the motion for fees. (Robbins v. Alibrandi (2005) 127 Cal. App. 4th 438, 450-451.)

"Because absent class members are not directly involved in the proceedings, oversight to ensure settlements are fair and untainted by conflict is the responsibility of both the class representative and the court." (Mark v. Spencer (2008) 166 Cal.App.4th 219, 227.)

"In any class action there is always the temptation for the attorney for the class to recommend settlement on terms less favorable to his clients because a large fee is part of the bargain. ... [T]horough judicial review of fee applications is required in all class action settlements and the fairness of the fees must be assessed independently of determining the fairness of the substantive settlement terms.' ... " 'The evil feared in some settlements-unsupervised attorneys negotiating large attorney's fees at the expense of an inadequate settlement for the client-can best be met by a careful ... judge, sensitive to the problem, properly evaluating the adequacy of the settlement for the class and determining and setting a reasonable attorney's fee....' " (Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 555-556.)

The court notes that counsel seeks fees of \$1,140,000, which is 38% of the total fund. The court sets out its standard analysis below. Counsel may address that analysis in the fee application.

The Ninth Circuit's benchmark is 25%. (Laffitte v. Robert Half Internat. Inc. (2016) 1 Cal.5th 480, 495.)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

This court's benchmark for fees is 30% of a total fund. (Laffitte v. Robert Half Internat. Inc. (2016) 1 Cal.5th 480, 495; Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167, 1175; Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 557 fn 13; Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 fn 11.)

When cross-checking with the lodestar/multiplier, the court will evaluate the lodestar based on reasonable fees that would have been charged at hourly rates and then apply a multiplier. The multiplier includes contingent fee risk and other factors.

When considering risk, the court considers there is less risk in a case with fee shifting statutes because counsel's potential fees are not limited by and coupled to the monetary recovery. "The law does not mandate ... that attorney fees bear a percentage relationship to the ultimate recovery of damages in a civil rights case." (Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407, 419.) (See also Heritage Pacific Financial, LLC v. Monroy (2013) 215 Cal.App.4th 972, 1006-1007.)

The Court will not decide the amount of any service award until final approval hearing. Plaintiff must provide evidence regarding the nature of his participation in the action, including a description of his specific actions and the amount of time he committed to the prosecution of the case. (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 804-807.) The court's standard service award is \$7,500.

The Court ORDERS that 10% of any fee award to be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

The Court will set a compliance hearing after the completion of the distribution process and the expiration of the time to cash checks for counsel for plaintiff and the Administrator to comply with CCP 384(b) and to submit a summary accounting how the funds have been distributed to the class members and the status of any unresolved issues. If the distribution is completed, the Court will at that time release any hold-back of attorney fees.

The court will sign the proposed order, which is modified by this order. Plaintiff must reserve a hearing for the motion for final approval.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Claudia Fiske, Executive Officer/Clerk of the Court


By: R. Mishra, Deputy Clerk

Minutes of: 02/15/2022
Entered on: 02/15/2022

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Spencer Sumisaki et al
Plaintiff/Petitioner(s)
VS.
Berkeley Bowl Produce Inc
Defendant/Respondent(s)

No. RG19014520

Date: 02/15/2022

Time: 10:00 AM

Dept: 21

Judge: Evelio Grillo

ORDER re: Hearing on Motion - Other

Motion for Preliminary

Approval of Class Action

Settlement

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ORDER re: Hearing on Motion - Other Motion for Preliminary Approval of
Class Action Settlement

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

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The Court ORDERS that 10% of any fee award to be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

The Court will set a compliance hearing after the completion of the distribution process and the expiration of the time to cash checks for counsel for plaintiff and the Administrator to comply with CCP 384(b) and to submit a summary accounting how the funds have been distributed to the class members and the status of any unresolved issues. If the distribution is completed, the Court will at that time release any hold-back of attorney fees.

The court will sign the proposed order, which is modified by this order. Plaintiff must reserve a hearing for the motion for final approval.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated: 02/15/2022



Evelio Grillo / Judge

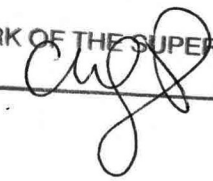
EXHIBIT C

Edwin Aiwazian (SBN 232943)
 Arby Aiwazian (SBN 269827)
 Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
 410 West Arden Avenue, Suite 203
 Glendale, California 91203
 Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

FILED
 ALAMEDA COUNTY

FEB 17 2022

CLERK OF THE SUPERIOR COURT
 By  Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ALAMEDA**

SPENCER SUMISAKI, DAVIAN
 MONTGOMERY, individually, and on behalf
 of other members of the general public
 similarly situated; NADIA MORALES,
 individually, and on behalf of other members
 of the general public similarly situated and on
 behalf of other aggrieved employees pursuant
 to the California Private Attorneys General
 Act; NINA WILLIAMS, individually, on
 behalf of other aggrieved employees pursuant
 to the California Private Attorneys General
 Act,

Plaintiffs,

v.

BERKELEY BOWL PRODUCE, INC., a
 California corporation; and DOES 1 through
 100, inclusive,

Defendants.

Case No.: RG19014520

Honorable Evelio Grillo
 Department 21

CLASS ACTION

**[REVISED PROPOSED] ORDER
 GRANTING PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT**

Reservation No. 768154232963
 Date: February 15, 2022
 Time: 10:00 a.m.
 Department: 21

Complaint Filed: April 10, 2019
 FAC Filed: July 17, 2019
 SAC Filed: November 20, 2020
 Trial Date: None Set

1 This matter has come before the Honorable Evelio Grillo in Department 21 of the Superior
2 Court of the State of California, for the County of Alameda, on February 15, 2022 at 10:00 a.m. for
3 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. Lawyers *for* Justice, PC
4 appears as counsel for Plaintiffs Davian Montgomery, Nadia Morales, and Nina Williams
5 ("Plaintiffs") and Hopkins & Carley appears as counsel for Defendant Berkeley Bowl Produce, Inc.
6 ("Defendant").

7 The Court, having carefully considered the papers, argument of counsel, and all matters
8 presented to the Court, and good cause appearing, hereby GRANTS Plaintiffs' Motion for
9 Preliminary Approval of Class Action Settlement.

10 **IT IS HEREBY ORDERED THAT:**

11 1. The Court preliminarily approves the Class Action and PAGA Settlement
12 Agreement and Stipulation ("Settlement," "Agreement," or "Settlement Agreement"), attached as
13 "EXHIBIT 1" to the Declaration of Edwin Aiwasian in Support of Plaintiffs' Motion for Preliminary
14 Approval of Class Action Settlement. This is based on the Court's determination that the Settlement
15 falls within the range of possible approval as fair, adequate, and reasonable.

16 2. This Order incorporates by reference the definitions in the Settlement Agreement,
17 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in the
18 Settlement Agreement.

19 3. It appears to the Court on a preliminary basis that the Settlement is fair, adequate
20 and reasonable. It appears to the Court that extensive investigation and research have been
21 conducted such that counsel for the parties at this time are able to reasonably evaluate their respective
22 positions. It further appears to the Court that the Settlement, at this time, will avoid substantial
23 additional costs by all parties, as well as avoid the delay and risks that would be presented by the
24 further prosecution of the case. It further appears that the Settlement has been reached as the result
25 of intensive, serious and non-collusive, arms-length negotiations, and was entered into in good faith.

26 4. The Court preliminarily finds that the Settlement, including the allocations for
27 Attorneys' Fees, Attorneys' Costs, Service Payments, PAGA Allocation, Settlement Administration
28 Costs, and payments to the Settlement Class Members provided thereby, appear to be within the

1 range of reasonableness of a settlement that could ultimately be given final approval by this Court.
2 Indeed, the Court has reviewed the monetary recovery that is being granted as part of the Settlement
3 and preliminarily finds that the monetary settlement awards made available to the Class Members
4 are fair, adequate, and reasonable when balanced against the probable outcome of further litigation
5 relating to certification, liability, and damages issues.

6 5. The Court concludes that, for settlement purposes only, the proposed Class meets
7 the requirements for certification under section 382 of the California Code of Civil Procedure in
8 that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
9 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
10 community of interest amongst the members of the Class with respect to the subject matter of the
11 litigation; (c) Plaintiffs' claims are typical of the claims of the members of the Class; (d) Plaintiffs
12 will fairly and adequately protect the interests of the members of the Class; (e) a class action is
13 superior to other available methods for the efficient adjudication of the controversy; and (f) Class
14 Counsel is qualified to act as counsel for Plaintiffs in their individual capacities and as the
15 representatives of the Class.

16 6. The Court conditionally certifies, for settlement purposes only, the Class, defined as
17 follows:

18 All current and former hourly-paid or non-exempt employees who worked for
19 Defendant within the State of California at any time during the period from April 10,
20 2015 through the date of this Order.

21 7. The Court provisionally appoints Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh,
22 and Melissa LeBlanc of Lawyers *for* Justice, PC as counsel for the Class ("Class Counsel").

23 8. The Court provisionally appoints Plaintiffs Davian Montgomery, Nadia Morales,
24 and Nina Williams as the representatives of the Class (together, "Class Representatives").

25 9. The Court provisionally appoints Simpluris, Inc. ("Simpluris") to handle the
26 administration of the Settlement ("Settlement Administrator").

27 10. Within fifteen (15) calendar days after notice of entry this Order, Defendant shall
28 provide to the Settlement Administrator a data file that identifies for each Class Member, his/her full
name, last-known address, Social Security number, and number of Qualifying Workweeks and, if

1 applicable, Qualifying PAGA Workweeks for each Class Member (collectively referred to as the
2 “Class List”) in conformity with the Settlement Agreement.

3 11. The Court approves, both as to form and content, the Notice of Class Action and
4 PAGA Settlement (“Class Notice”) attached hereto as “**EXHIBIT 1.**” The Class Notice shall be
5 provided to Class Members in the manner set forth in the Settlement Agreement. The Court finds
6 that the Class Notice appears to fully and accurately inform the Class Members of all material
7 elements of the Settlement, of Class Members’ right to be excluded from the Class Settlement by
8 submitting an opt out request, of Class Members’ right to dispute the Qualifying Workweeks and/or
9 Qualifying PAGA Workweeks credited to each of them, and of each Settlement Class Member’s
10 right and opportunity to object to the Class Settlement by submitting a written objection to the
11 Settlement Administrator. The Court further finds that distribution of the Class Notice substantially
12 in the manner and form set forth in the Settlement Agreement and this Order, and that all other dates
13 set forth in the Settlement Agreement and this Order, meet the requirements of due process and shall
14 constitute due and sufficient notice to all persons entitled thereto. The Court further orders the
15 Settlement Administrator to mail the Class Notice by First-Class U.S. mail to all Class Members
16 within fourteen (14) calendar days of receipt of the Class List, pursuant to the terms set forth in the
17 Settlement Agreement.

18 12. The Court hereby preliminarily approves the proposed procedure, set forth in the
19 Settlement Agreement, for seeking exclusion from the Class Settlement. Any Class Member may
20 choose to be excluded from the Class Settlement by submitting a timely and valid written opt out
21 request, in conformity with the requirements set forth in the Class Notice, to the Settlement
22 Administrator, postmarked no later than the date which is forty-five (45) calendar days from the
23 initial mailing of the Class Notice to Class Members (“Response Deadline”). Any such person who
24 timely and validly chooses to opt out of, and be excluded from, the Class Settlement will not be
25 entitled to any recovery under the Class Settlement and will not be bound by the Class Settlement
26 or have any right to object, appeal, or comment thereon. Class Members who have not submitted a
27 timely and valid request to be excluded from the Class Settlement (i.e., Settlement Class Member)
28 shall be bound by the Class Settlement. The opt out procedure does not apply to the PAGA

1 Settlement; PAGA Members will be bound to the PAGA Settlement (i.e., the settlement and release
2 of Settled PAGA Claims) irrespective of whether they exclude themselves from the Class
3 Settlement.

4 13. A Final Approval Hearing shall be held before this Court on June 15, 2022 at 10:00
5 a.m. in Department 21 of the Alameda County Superior Court, located at 1221 Oak Street, Oakland,
6 California 94612, to determine all necessary matters concerning the Settlement, including: whether
7 the proposed settlement of the Action on the terms and conditions provided for in the Settlement is
8 fair, adequate, and reasonable and should be finally approved by the Court; whether a judgment, as
9 provided in the Settlement, should be entered herein; whether the plan of allocation contained in the
10 Settlement should be approved as fair, adequate, and reasonable to the Class Members; and
11 determine whether to finally approve the requests for the Attorneys' Fees, Attorneys' Costs, Service
12 Payments, and Settlement Administration Costs.

13 14. Class Counsel shall file a motion for final approval of the Settlement and for
14 Attorneys' Fees, Attorneys' Costs, Service Payments, and Settlement Administration Costs, along
15 with the appropriate declarations and supporting evidence, including the Settlement Administrator's
16 declaration, by May 23, 2022 to be heard at the Final Approval Hearing.

17 15. To object to the Class Settlement, a Class Member must submit their written
18 objection, in conformity with the requirements set forth in the Class Notice, to the Settlement
19 Administrator on or before the Response Deadline. The objection must be signed and must contain
20 the information that is required, as set forth in the Class Notice, including and not limited to the
21 grounds for the objection.

22 16. The Settlement is not a concession or admission, and shall not be used against
23 Defendant as an admission or indication with respect to any claim of any fault or omission by
24 Defendant. Whether or not the Settlement is finally approved, neither the Settlement, nor any
25 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
26 thereof, shall in any event be construed as, offered or admitted into evidence as, received as or
27 deemed to be in evidence for any purpose adverse to the Defendant, including, but not limited to,
28 evidence of a presumption, concession, indication or admission by Defendant of any liability, fault,

1 wrongdoing, omission, concession, or damage, except for legal proceedings concerning the
2 implementation, interpretation, or enforcement of the Settlement.

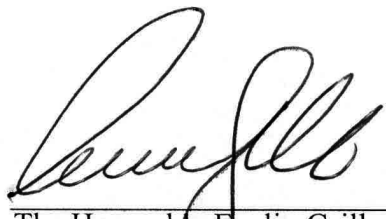
3 17. In the event the Settlement does not become effective in accordance with the terms
4 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, cancelled
5 or fails to become effective for any reason, this Order shall be rendered null and void, shall be
6 vacated, and the Parties shall revert back to their respective positions as of before entering into the
7 Settlement Agreement.

8 18. The Court reserves the right to adjourn or continue the date of the Final Approval
9 Hearing and any dates provided for in the Settlement Agreement without further notice to the Class
10 Members, and retains jurisdiction to consider all further applications arising out of or connected with
11 the Settlement.

12 **IT IS SO ORDERED.**

13
14 Dated: 2-17-2022

By:


The Honorable Evelio Grillo
Judge of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 410 West Arden Avenue, Suite 203, Glendale, California 91203.

On February 24, 2022, I served the foregoing document(s) described as: **NOTICE OF ENTRY OF JUDGMENT OR ORDER** on interested parties in this action by Electronic Service as follows:

Ernest M. Malaspina (emalaspina@hopkinscarley.com)
Jennifer S. Coleman (jcoleman@hopkinscarley.com)
Sean Bothamley (sbothamley@hopkinscarley.com)

HOPKINS & CARLEY

A Law Corporation
The Leticia Building
70 South First Street
San Jose, CA 95113

Attorneys for Defendant, BERKELEY BOWL PRODUCE, INC.

[X] BY E-MAIL

The above-referenced document was transmitted to the person(s) at the e-mail addresses listed herein at their most recent known e-mail address or e-mail of record in this action. I did not receive, within reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

State of California, Labor & Workforce Development Agency
Web URL:

<http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

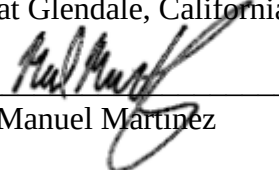
[X] BY ONLINE SUBMISSION

The foregoing documents were transmitted to the California Labor and Workforce Development Agency through the online system established for the submission of notices and documents, in conformity with California Labor Code section 2699(l). I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 24, 2022, at Glendale, California.


Manuel Martinez